

doubts were expressed by the Judge to the effect that unless the defendant were an *officer de facto* he could not be compelled to discharge the functions of the office. It would be another question, however, where an officer no longer under the obligation of his *jurat* takes upon himself the discharge of a duty and in

THE EXERCISE OF THAT FUNCTION

violates a statute. In the first case the remedy against him would be for neglect to fulfil a duty and in the other for an improper execution of an assumed duty.

Mr. Fyfe stated that he had not so understood the Court, but he would, however, claim the right to show that there was no such thing in this case as an *officer de facto* even, for the office had ceased to exist from the first of July, and he had been discharged of it. It was not necessary to ask the Court to allow a discussion of this question.

The Judge suggested that counsel discuss first whether the office ceased to exist or whether the

He applied yesterday or rather his counsel, Mr. Fullerton, did for him, to Judge Barrett, at Supreme Court, Chambers, for a writ of mandamus against the Comptroller, directing him to pay the amount of the claim.

The case was argued at considerable length, Mr. Strahan appearing as counsel for the Comptroller. He submitted two affidavits, one showing that there was no record in the Comptroller's office of any assignment of the claim, and the other of a gentleman, claimed to be a competent judge in the matter, that \$7,000 would be liberal rent for the premises. He averred further that the claim had not yet been audited, and was not yet stated. The report was that it was too late now to complain of excessive rent, the premises having been occupied for some time, and that the claim was for which pay of rent is claimed. As to the assignment, it was claimed that if the writ was incompetent this could be remedied in the writ. As to the

ne might know him.
The Rev. Mr. Stone, of Providence, and Secretary of the Historical Society of that city, produced copies of the *Providence Journal* for the years 1797 and 1800, and showed therein announcements of the deaths of Gideon Hull and Mrs. Hull.
The further hearing of the case was adjourned till to-day.

GRAND JURIES FOR FEBRUARY.

Who Are to Constitute the Next Grand Juries in the Courts of Oyer and Terminer and General Sessions—Names on the Panel.

There probably was never a time in our municipal history when such grave importance attached to the character of the men comprising the grand

road and transportation Company.—Same.
Dennett vs. Dennett et al.—Motion denied, with
\$10 costs.

SUPERIOR COURT—SPECIAL TERM.

Decisions.
By Judge Harbourn.

Christy vs. Dolon.—Motion granted.
Jacobs vs. The Greenwich Insurance Company.—
Order granted.

Cohen vs. Lynch.—Order granted.
By Judge Sedgwick.

O'Brien vs. O'Neill.—Motion granted as against
Rosell by default; allowance \$200, decided against
de Oysterson.

In the Matter of Solomon Jacobs.—See Clerk's
Special Term.

By Judge Van Vorst.

Harvey vs. The Rubber Tire Pencil Company.—
Motion denied.

mobile. The defendant assumed the act as being in the discharge of his duties as a tax collector, there being no wharves and other steamers owned by Morgan about \$7,000. It is here claimed that the tax is a duty on tonnage, and as such it is prohibited by the federal constitution as being a regulation of commerce, which power is exclusively with Congress. It is besides said that if the State law imposing the tax is held constitutional as fixing a tax on property having its *stipes* within the city limits, still it is held to be a tax on the business of the wharves for temporary purposes and does not bring it within the terms of the statute. The relation of the boats to the city was that of contact only, as one of the terms in the promotion of the owner's business. The steamer did not so abide within the city as to become incorporated with and form a part of its personal property, and it was therefore beyond the jurisdiction of the Court. P. Phillips for plaintiff in error; C. F. Moulton for defendant.